



The Karnataka Legislature (Prevention of Disqualification) Act, 1956

Act 4 of 1957

Keyword(s):

Committee, Compensatory, Statutory Body, Disqualification

Amendment appended: 17 of 2006

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THE KARNATAKA LEGISLATURE (PREVENTION OF DISQUALIFICATION) ACT, 1956.

ARRANGEMENT OF SECTIONS.

[Statement of Object and Reasons](#)

Sections :

1. [Short Title.](#)
2. [Definitions.](#)
3. [Removal of certain disqualifications.](#)

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STATEMENT OF OBJECTS AND REASONS

I

Act 4 of 1957.— Consequent on the taking over of life insurance business by the Government of India, any member of the State Legislature holding an office of profit in any of the Insurance Companies whose life insurance business has been taken over, will incur disqualifications from membership of the State Legislature. The disqualification in respect of members of Parliament holding similar offices of profit has been removed by section 15 of the Insurance (Emergency Provisions) Act, 1956 (Central Act 9 of 1956), and the Government of India have drawn attention of the State Government to this provision and have suggested consideration of enactment of similar law to cover cases of members of the State legislature. It is considered necessary to enact a similar law in the State. Hence the Bill.

(Published in the Mysore Gazette (Extraordinary) dated 18-9-1956 at page 2)

II

Amending Act 35 of 1962.— At present the Home Guards Organisation is in existence only in the Bombay-Karnataka Districts of the State. In view of the present emergency it is considered necessary to have a voluntary body of person throughout the State to discharge duties in relation to the protection of persons, the security of property and preservation of public order in emergency. Hence, it is proposed to organise Home Guards in the entire State. In order to effectively control and administer the Organisation it is necessary to have a uniform law. In view of the urgency and as the Legislature was not in session, the Mysore Home Guard Ordinance, 1962, was issued. The present Bill is intended to replace the said Ordinance.

Except for the two clauses relating to repeal and saving, and the addition of a provision for laying rules made under the Act before the Houses of Legislature, in other respects the provisions of the Bill are identical with the provisions of the Ordinance.

(Published in the Mysore Gazette (Extraordinary) Part IV-2A as No. 238 dated 1-12-1962.)

III

Amending Act 34 of 1964.— The Village Defence Parties exist in the four districts of the Bombay Area. These parties are voluntary organisations of able bodied villagers meant for the defence of villages against depredations of dacoits and other types of criminals. These parties are constituted under the Bombay Police Act, 1951.

2. In the present national emergency when the Police are engaged in important duties, it is considered necessary to organise village defence parties throughout the State for the defence of the villages, protection of persons and property, and preservation of public order and tranquillity. The Mysore Home Guards Act, 1962 provides for constitution of Home Guards. Home Guards are normally appointed for the urban areas. The village defence parties are meant for the villages. The constitute Village Defence Parties throughout the State a uniform law is proposed to be enacted. Hence the Bill.

(Obtained from L.A. Bill No. 11087 dated 23-1-1964)

IV

Amending Act 22 of 1989.—It is considered necessary to amend the Karnataka Legislature (Prevention of Disqualification) Act, 1956 to declare that the offices of the Adhyaksha and Upadhyaksha of the Zilla Parishads constituted under the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayat Act, 1983 (Karnataka Act 20 of 1985) shall not disqualify and shall be deemed never to have disqualified a person for being chosen as or for being a member of the Karnataka Legislative Assembly or the Karnataka Legislative Council.

Ordinance No. 2 of 1989 was promulgated for the above purpose.

This Bill is intended to replace the said Ordinance.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, Dated 23rd March 1989 as No. 159 at page. 3)

V

Amending Act 20 of 1991.—The Pradhana and Upapradhana of Mandal Panchayats are entitled to receive monthly salaries of Rs. 300 and Rs. 150 respectively.

Under sub-clause (a) of clause (1) of Article 191 of the Constitution of India, Persons holding offices of profit under the State are disqualified from being chosen as or continuing as members of the State Legislature, unless the State Legislature declares by law, that the offices shall not disqualify them.

The Karnataka Legislature (Prevention of Disqualification) Act, 1956 was amended earlier to remove the disqualification arising from the holding of the office of the Adhyaksha or Upadhyaksha of the Zilla Parishads. However, the offices of the Pradhana and Upapradhana were not covered by the said amendment.

It is now proposed to amend the aforesaid Act to include the offices of the Pradhana and Upapradhana and to provide thereby that the holding of such offices will not amount to disqualification for being chosen or continuing as a member of the State Legislature.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, Dated 7th March 1991 as No. 91 at page. 177.)

VI

Act 22 of 2000.- Note: By this Act certain spent and obsolete laws were repealed. While doing so certain minor amendments are made to this and some other Acts.

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¹[KARNATAKA]¹ ACT No. 4 OF 1957.

(First published in the ¹[Karnataka Gazette]¹ on the Twenty-fourth Day of January, 1957.)

**THE ¹[KARNATAKA LEGISLATURE]¹ (PREVENTION OF DISQUALIFICATION)
ACT, 1956.**

(Received the assent of the Governor on the Fifteenth day of January, 1957.)

(As amended by Act, 35 of 1962, 34 of 1964, 72 of 1976,
22 of 1989 and 20 of 1991)

An Act to declare certain offices of profit not to disqualify their holders for being chosen as, or for being members of the ¹[Karnataka Legislative Assembly]¹ and the ¹[Karnataka Legislative Council]¹.

WHEREAS it is expedient to declare that certain offices should not, under certain conditions, disqualify or be deemed to have disqualified, the holders thereof for being chosen as, or for being, members of the ¹[Karnataka Legislative Assembly]¹ and the ¹[Karnataka Legislative Council]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Seventh Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1971.

1. Short title.- This Act may be called the ¹[Karnataka Legislature]¹ (Prevention of Disqualification) Act, 1956.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1971.

2. Definitions.- In this Act, unless the context otherwise requires,—

(a) “Committee” means any Committee, Commission, Council, Board or any other body of one or more persons whether statutory or not, set up by the Government of India or the Government of any State;

(b) “Compensatory allowance” means such sum of money as the Central Government, or the Government of any State, as the case may be, may determine as being payable to the Chairman or any other member of a Committee by way of travelling allowance, daily allowance, sitting fee, conveyance allowance or house rent allowance for the purpose of enabling the Chairman or other member to recoup any expenditure incurred by him in attending any meeting of a Committee or performing any other function as a member of a Committee.

(c) “Statutory body” means any corporation, board, company, society or any other body of one or more persons, whether incorporated or not, established, registered or formed by or under any Central Law or the law of any State for the time being in force or exercising powers and functions under any such law.

3. Removal of certain disqualifications.- It is hereby declared that the following offices shall not disqualify and shall be deemed never to have disqualified, the holders thereof for being chosen as, or for being members of the ¹[Karnataka Legislative Assembly]¹ or the ¹[Karnataka Legislative Council]¹:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1971.

(a) the office of a Deputy Minister, a Parliamentary Secretary ¹[the Leaders of the Opposition or the Government Chief Whips.]¹

1. Substituted by Act 72 of 1976. w.e.f. 19.07.1976.

(b) the offices held in the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948 (Central Act XXXI of 1948), in the Territorial Army raised and maintained under the Territorial Army Act, 1948 (Central Act LVI of 1948), and in the Auxiliary Air Forces Act, 1952 (Central Act LXII of 1952);

¹[(bb) the office of a member of the Home Guards constituted under the ²[Karnataka]² Home Guards Act, 1962;]¹

1. Inserted by the Act 35 of 1962 w.e.f. 27.12.1962.

2. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

¹[(bbb)]² the office of a member of a Village Defence Party constituted under the ³[Karnataka]³ Village Defence Parties Act, 1964.]¹

1. Inserted by the Act 34 of 1964 w.e.f. 1.11.1965 by notification. Text of the notification is at the end of the Act

2. Substituted by Act 22 of 2000 w.e.f. 1.11.1965.

3. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(c) the office of the Secretaries of the District Development Boards constituted by the State Government (by whatever name called):

Provided that the holders of such office do not hold any other office of profit under the State Government;

¹[(cc) the offices of Adhyaksha and Upadhyaksha of the Zilla Parishads ²[and Pradhana and Upa-Pradhana of Mandal Panchayats]² constituted under the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 (Karnataka Act 20 of 1985);]¹

1. Inserted by Act 22 of 1989 w.e.f. 14.08.1985.

2. Inserted by Act 20 of 1991 w.e.f. 14.08.1985.

(d) the office of the Chairman or Member of a Committee:

Provided that the holder of any such office is not in receipt of or entitled to, any remuneration other than the compensatory allowance.

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NOTIFICATION

Bangalore dated 16/18th October 1965 [No. HD 354 PEG 65]

S. O. 3354.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Village Defence Parties Act, 1964 (Karnataka Act 34 of 1964), the Government of Karnataka hereby specified the 1st day of November 1965 as the date on which the said Act shall come into force in the whole of the State of Karnataka.

By Order and in the name of the Governor of Mysore

M.S. Shankar Rao

Secretary Home Department.

(Published in the Karnataka Gazette Part IV-2C (ii) dated 28-10-1965 at page 3160.)

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Karnataka Act No.17 of 2006

**THE KARNATAKA LEGISLATURE (PREVENTION OF DISQUALIFICATION)
(AMENDMENT) ACT, 2006**

Arrangement Sections

Sections:

1. Short title and commencement
2. Amendment of section 3
3. Special provision as to validation and other matters

STATEMENT OF OBJECTS AND REASONS

The Karnataka Legislature (Prevention of Disqualification) Act, 1956 (Karnataka Act No. 4 of 1957) was enacted to exempt certain offices, holding of which will otherwise subject the holder of such office to disqualification. The consequence of disqualification of members of legislature on the ground of their holding an office of profit results in unnecessary expenditure and unforeseen financial burden upon the State exchequer. In view of the recent developments in this regard, it has become necessary to reconsider the issue regarding disqualification of members of the legislature on the ground of holding an office of profit. The Government of India has reconsidered the issue regarding the consequences of the member of the parliament holding office of profit and passed the Parliament (Prevention of Disqualification) (Amendment) Bill, 2006 (Bill No. 44 of 2006). In view of the same, it is proposed to amend the Karnataka Legislature (Prevention of Disqualification) Act, 1956 on the similar lines.

The proposed amendment will not only assist the government in avoiding unforeseen expenditures but also will help in having the rich experience of the peoples' representatives in managing the affairs of different boards and corporations.

Hence the Bill.

[L.A. Bill No. 13 of 2006]

Karnataka Act No.17 of 2006

(First Published in the Karnataka Gazette Extra-ordinary on the 4th day of November 2006)

**THE KARNATAKA LEGISLATURE (PREVENTION OF DISQUALIFICATION)
(AMENDMENT) ACT, 2006**

(Received the assent of the Governor on the third day of November, 2006)

An Act further to amend the Karnataka Legislature (Prevention of Disqualification) Act, 1956.

Whereas it is expedient further to amend the Karnataka Legislature (Prevention of Disqualification) Act, 1956 (Karnataka Act 4 of 1957), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Fifty-seventh year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Legislature (Prevention of Disqualification) (Amendment) Act, 2006.

(2) It shall come into force at once.

2. Amendment of section 3.- In section 3 of the Karnataka Legislature (Prevention of Disqualification) Act, 1956 (Karnataka Act 4 of 1957) (hereinafter referred to as the principal Act),-

(1) for clause (a), the following shall be and shall always be deemed to have been substituted, namely:-

“(a) the offices of the Chairman, the Speaker, the Deputy Chairman, the Deputy Speaker, the Minister of State, the Deputy Minister, the Parliamentary Secretary, the leaders of the Opposition or the Government Chief Whip in the Legislative Assembly or in the Legislative Council.”

(2) clause (bbb) shall be omitted;

(3) clause (c) and its proviso shall be omitted.

(4) for clause (cc), the following shall be substituted namely:-

"(c1) the offices of the President and the Vice-President of a Municipal Council under the Karnataka Municipalities Act, 1964.

(c2) the Mayor or the Deputy Mayor of a Municipal Corporation constituted under the Karnataka Municipal Corporations Act, 1976.

(c3) the offices of Adhyaksha and Upadhyaksha of the Zilla Panchayats, Taluk Panchayats and Grama Panchayats constituted under the Karnataka Panchayat Raj Act, 1993.”

(5) for clause (d) and the proviso, the following shall be and shall always be deemed to have been substituted, namely:-

“(d) the offices of the Chairman, Vice-Chairman, President, Vice-President, Director, of the Governing body or a Member by whatever name any of the aforesaid office is called, of any Committee (by whatever name called) or of any Society registered under any other law relating to registration of societies.”

3. Special provision as to validation and other matters.- (1) Notwithstanding any judgement or order of any court or tribunal or any order or opinion of any other authority, the offices specified in section 3 of the principal Act shall not disqualify or shall be deemed not to have disqualified the holder thereof for being chosen as or for being, a member of either House of the State Legislature as if the principal Act as amended by this Act had been in force at all material times.

(2) Nothing contained in sub-section (1), shall be construed as to entitle any person who has vacated a seat owing to any order or judgement as aforesaid, to claim any re-instatement or any other claim in that behalf.

(3) For the removal of doubts, it is hereby clarified that any petition or reference pending before any court or other authority on the date of commencement of this Act, shall be disposed of in accordance with the provisions of the principal Act as amended by this Act.

T.N. chaturvedi
Governor of Karnataka

By Order and in the name of the Governor of Karnataka,

G. K. BOREGOWDA
Secretary to Government,
Department of Parliamentary Affairs and Legislation.